

HOUSE BILL 423

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J2

2001 Regular Session  
(11r0079)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Medical Radiation Technologists and Nuclear Medical Technologists -**  
3 **Reporting Requirements, Practicing Without a Certificate, and Disciplinary**  
4 **Grounds, ~~and~~ Rehabilitation**

5 FOR the purpose of requiring hospitals, *related institutions*, alternative health  
6 systems, and employers to report certain employment actions or termination of  
7 employment of medical radiation technologists and nuclear medical  
8 technologists; *providing certain exceptions to the reporting requirement under*  
9 *certain circumstances; providing certain procedures for reporting the treatment*  
10 *of a certified medical radiation technologist or nuclear medical technologist in an*  
11 *alcohol or drug treatment program*; establishing an administrative fine for  
12 practicing without a certificate for medical radiation technologists and nuclear  
13 medical technologists; establishing a certain grounds for discipline for medical  
14 radiation technologists and nuclear medical technologists based on the filing of  
15 certified dockets; ~~providing for medical radiation technologists and nuclear~~  
16 ~~medical technologists to participate in a rehabilitation program; authorizing the~~

1 ~~Board of Physician Quality Assurance to assess a fee to medical radiation~~  
2 ~~technologists and nuclear medical technologists for the utilization of the~~  
3 ~~rehabilitation program; and generally relating to the licensure, and discipline,~~  
4 ~~and rehabilitation of medical radiation technologists and nuclear medical~~  
5 ~~technologists.~~

6 BY repealing and reenacting, without amendments,

7 Article - Health Occupations

8 Section 14-402

9 Annotated Code of Maryland

10 (2000 Replacement Volume)

11 BY repealing and reenacting, with amendments,

12 Article - Health Occupations

13 Section ~~14-402~~, 14-405(a); and 14-606

14 Annotated Code of Maryland

15 (2000 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Health Occupations**

19 14-402.

20 (a) In reviewing an application for licensure, certification, or registration or in  
21 investigating an allegation brought against a licensed physician or any allied health  
22 professional regulated by the Board under this title, the medical society or Faculty  
23 committee may request the Board to direct, or the Board on its own initiative may  
24 direct, the licensed physician or any allied health professional regulated by the Board  
25 under this title to submit to an appropriate examination.

26 (b) In return for the privilege given by the State issuing a license,  
27 certification, or registration, the licensed, certified, or registered individual is deemed  
28 to have:

29 (1) Consented to submit to an examination under this section, if  
30 requested by the Board in writing; and

31 (2) Waived any claim of privilege as to the testimony or examination  
32 reports.

33 (c) The unreasonable failure or refusal of the licensed, certified, or registered  
34 individual to submit to an examination is prima facie evidence of the licensed,  
35 certified, or registered individual's inability to practice medicine or the respective  
36 discipline competently, unless the Board finds that the failure or refusal was beyond  
37 the control of the licensed, certified, or registered individual.

1 (d) The Board shall pay the costs of any examination made under this section.

2 (e) (1) (i) The Board shall assess each applicant for a license to practice  
3 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to  
4 be set after the submission of a budget for the physician rehabilitation program and  
5 peer review activities by the Faculty to the Board.

6 (ii) The fee is to be used to fund the physician rehabilitation  
7 program and peer review activities of the Faculty, as approved by the Secretary.

8 (iii) The Board shall set a fee under this subsection in accordance  
9 with the budget submitted by the Faculty.

10 (2) The Legislative Auditor shall every 2 years audit the accounts and  
11 transactions of the Faculty for the physician rehabilitation program and peer review  
12 activities as provided in § 2-1220 of the State Government Article.

13 ~~(F) (1) (I) THE BOARD SHALL ASSESS EACH APPLICANT FOR A  
14 CERTIFICATE TO PRACTICE AS A MEDICAL RADIATION TECHNOLOGIST OR NUCLEAR  
15 MEDICAL TECHNOLOGIST OR FOR RENEWAL OF A CERTIFICATE TO PRACTICE AS A  
16 MEDICAL RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST A FEE  
17 SET BY THE BOARD AFTER THE SUBMISSION OF A BUDGET FOR THE MEDICAL  
18 RADIATION TECHNOLOGIST AND NUCLEAR MEDICAL TECHNOLOGIST  
19 REHABILITATION PROGRAM BY THE FACULTY.~~

20 ~~(H) THE FEE IS TO BE USED TO FUND THE MEDICAL RADIATION  
21 TECHNOLOGIST AND NUCLEAR MEDICAL TECHNOLOGIST REHABILITATION  
22 PROGRAM ACTIVITIES OF THE FACULTY, AS APPROVED BY THE SECRETARY.~~

23 ~~(III) THE BOARD SHALL SET A FEE UNDER THIS SUBSECTION IN  
24 ACCORDANCE WITH THE BUDGET SUBMITTED BY THE FACULTY.~~

25 ~~(2) THE LEGISLATIVE AUDITOR SHALL EVERY 2 YEARS AUDIT THE  
26 ACCOUNTS AND TRANSACTIONS BY THE FACULTY FOR THE MEDICAL RADIATION  
27 TECHNOLOGIST AND NUCLEAR MEDICAL TECHNOLOGIST REHABILITATION  
28 PROGRAM AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.~~

29 14-405.

30 (a) Except as otherwise provided in the Administrative Procedure Act, before  
31 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17 OR §  
32 14-606(F)(1) of this title, it shall give the individual against whom the action is  
33 contemplated an opportunity for a hearing before a hearing officer.

34 14-606.

35 (a) The Board shall:

1 (1) Define, for the purpose of this section, a "medical radiation  
2 technologist", a "nuclear medical technologist", "practice nuclear medical technology",  
3 and "practice medical radiation technology";

4 (2) Adopt rules and regulations concerning qualifications, training,  
5 certification, monitoring of, and enforcement requirements for a medical radiation  
6 technologist and a nuclear medical technologist; and

7 (3) Provide for a requirement to ensure competency in new safety and  
8 technological advances.

9 (b) The qualifications required of applicants for Board certification as a  
10 medical radiation technologist or a nuclear medical technologist shall include  
11 requirements established and approved by:

12 (1) The American College of Radiology - Maryland Chapter;

13 (2) The Maryland Society of Radiologic Technologists;

14 (3) The Maryland Association of Nuclear Medicine Technologists;

15 (4) The Maryland Society of Nuclear Medicine; and

16 (5) Any applicable federal standards for training and certification.

17 (c) After February 1, 1990, an individual must be certified by the Board as a  
18 medical radiation technologist or a nuclear medical technologist before a licensed  
19 physician may employ the individual to practice medical radiation technology or  
20 practice nuclear medical technology.

21 (d) This section does not apply to an individual who:

22 (1) Performs X-ray duties delegated by a licensed physician in  
23 accordance with § 14-306 of this title; or

24 (2) (i) Is otherwise certified or licensed under the provisions of this  
25 article; and

26 (ii) Has within the individual's scope of practice the duties of a  
27 medical radiation technologist or a nuclear medical technologist.

28 (e) (1) After February 1, 1990, an individual may not practice medical  
29 radiation technology or nuclear medical technology unless certified by the Board.

30 (2) ANY PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL  
31 FINE OF NOT MORE THAN \$5,000 TO BE LEVIED BY THE BOARD.

32 (3) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS  
33 SECTION INTO THE BOARD OF PHYSICIAN QUALITY ASSURANCE FUND.

1 (f) Subject to the hearing provisions of § 14-405 of this title, the Board, on the  
2 affirmative vote of a majority of its full authorized membership, may reprimand or  
3 place a medical radiation technologist or a nuclear medical technologist on probation  
4 or suspend or revoke the certification of a medical radiation technologist or a nuclear  
5 medical technologist for any conduct prohibited under the provisions of this section or  
6 prohibited under any regulation adopted pursuant to the provisions of this section.

7 (G) (1) ON THE FILING OF CERTIFIED DOCKET ENTRIES WITH THE BOARD  
8 BY THE OFFICE OF THE ATTORNEY GENERAL, THE BOARD SHALL ORDER THE  
9 SUSPENSION OF A CERTIFICATE IF THE CERTIFICATE HOLDER IS CONVICTED OF OR  
10 PLEADS GUILTY OR NOLO CONTENDERE WITH RESPECT TO A CRIME INVOLVING  
11 MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS  
12 PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.

13 (2) AFTER COMPLETION OF THE APPELLATE PROCESS IF THE  
14 CONVICTION HAS NOT BEEN REVERSED OR THE PLEA HAS NOT BEEN SET ASIDE  
15 WITH RESPECT TO A CRIME INVOLVING MORAL TURPITUDE, THE BOARD SHALL  
16 ORDER THE REVOCATION OF A CERTIFICATE ON THE CERTIFICATION BY THE OFFICE  
17 OF THE ATTORNEY GENERAL.

18 [(g)] (H) An individual certified by the American Registry of Radiologic  
19 Technologists, the Nuclear Medicine Technology Certification Board, or the American  
20 Society of Clinical Pathologists as a radiographer, radiation therapy technologist, or a  
21 nuclear technologist on or before February 1, 1990 shall be considered certified in  
22 that specialty under the provisions of this section.

23 (I) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND ~~(3)~~(4) OF THIS  
24 SUBSECTION, HOSPITALS, RELATED INSTITUTIONS, ALTERNATIVE HEALTH SYSTEMS  
25 AS DEFINED IN § 14-501 OF THIS TITLE, AND EMPLOYERS SHALL FILE WITH THE  
26 BOARD A REPORT THAT THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE  
27 HEALTH SYSTEM, OR EMPLOYER DENIED AN APPLICATION, OR LIMITED, REDUCED,  
28 OTHERWISE CHANGED, OR TERMINATED ANY CERTIFIED MEDICAL RADIATION  
29 TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST FOR ANY REASONS THAT  
30 MIGHT BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS SUBTITLE OR ANY  
31 REGULATION ADOPTED UNDER THIS SUBTITLE.

32 (2) A HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH  
33 SYSTEM, OR EMPLOYER THAT HAS REASON TO KNOW THAT A CERTIFIED MEDICAL  
34 RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST HAS  
35 COMMITTED AN ACTION OR HAS A CONDITION THAT MIGHT BE GROUNDS FOR  
36 REPRIMAND OR PROBATION OF THE CERTIFIED MEDICAL RADIATION  
37 TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST OR SUSPENSION OR  
38 REVOCATION OF THE CERTIFICATION BECAUSE THE CERTIFIED MEDICAL  
39 RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST IS ALCOHOL  
40 IMPAIRED OR DRUG IMPAIRED IS NOT REQUIRED TO REPORT THE TECHNOLOGIST  
41 TO THE BOARD IF:

1 (I) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH  
2 SYSTEM, OR EMPLOYER KNOWS THAT THE CERTIFIED MEDICAL RADIATION  
3 TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST IS:

4 1. IN AN ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS  
5 ACCREDITED BY THE JOINT COMMISSION ON THE ACCREDITATION OF HEALTH CARE  
6 ORGANIZATIONS OR IS CERTIFIED BY THE DEPARTMENT; OR

7 2. UNDER THE CARE OF A HEALTH CARE PRACTITIONER  
8 WHO IS COMPETENT AND CAPABLE OF DEALING WITH ALCOHOLISM AND DRUG  
9 ABUSE;

10 (II) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH  
11 SYSTEM, OR EMPLOYER IS ABLE TO VERIFY THAT THE CERTIFIED MEDICAL  
12 RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST REMAINS IN  
13 THE TREATMENT PROGRAM UNTIL DISCHARGE; AND

14 (III) THE ACTION OR CONDITION OF THE CERTIFIED MEDICAL  
15 RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST HAS NOT  
16 CAUSED INJURY TO ANY PERSON WHILE THE TECHNOLOGIST IS PRACTICING AS A  
17 CERTIFIED MEDICAL TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST.

18 (3) (I) IF THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST OR  
19 NUCLEAR MEDICAL TECHNOLOGIST ENTERS, OR IS CONSIDERING ENTERING, AN  
20 ALCOHOL OR DRUG TREATMENT PROGRAM THAT IS ACCREDITED BY THE JOINT  
21 COMMISSION ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS OR THAT IS  
22 CERTIFIED BY THE DEPARTMENT, THE CERTIFIED MEDICAL RADIATION  
23 TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST SHALL NOTIFY THE  
24 HOSPITAL, RELATED INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER  
25 OF THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST'S OR NUCLEAR MEDICAL  
26 TECHNOLOGIST'S DECISION TO ENTER THE TREATMENT PROGRAM.

27 (II) IF THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST OR  
28 NUCLEAR MEDICAL TECHNOLOGIST FAILS TO PROVIDE THE NOTICE REQUIRED  
29 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AND THE HOSPITAL, RELATED  
30 INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER LEARNS THAT THE  
31 CERTIFIED MEDICAL RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL  
32 TECHNOLOGIST HAS ENTERED A TREATMENT PROGRAM, THE HOSPITAL, RELATED  
33 INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER SHALL REPORT TO  
34 THE BOARD THAT THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST OR  
35 NUCLEAR MEDICAL TECHNOLOGIST HAS ENTERED A TREATMENT PROGRAM AND  
36 HAS FAILED TO PROVIDE THE REQUIRED NOTICE.

37 (III) IF THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST OR  
38 NUCLEAR MEDICAL TECHNOLOGIST IS FOUND TO BE NONCOMPLIANT WITH THE  
39 TREATMENT PROGRAM'S POLICIES AND PROCEDURES WHILE IN THE TREATMENT  
40 PROGRAM, THE TREATMENT PROGRAM SHALL NOTIFY THE HOSPITAL, RELATED  
41 INSTITUTION, ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE CERTIFIED

1 MEDICAL RADIATION TECHNOLOGIST'S OR NUCLEAR MEDICAL TECHNOLOGIST'S  
2 NONCOMPLIANCE.

3 (IV) ON RECEIPT OF THE NOTIFICATION REQUIRED UNDER  
4 SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE HOSPITAL, RELATED INSTITUTION,  
5 ALTERNATIVE HEALTH SYSTEM, OR EMPLOYER OF THE CERTIFIED MEDICAL  
6 RADIATION TECHNOLOGIST OR NUCLEAR MEDICAL TECHNOLOGIST SHALL REPORT  
7 THE CERTIFIED MEDICAL RADIATION TECHNOLOGIST'S OR NUCLEAR MEDICAL  
8 TECHNOLOGIST'S NONCOMPLIANCE TO THE BOARD.

9 ~~(3)~~ (4) A PERSON IS NOT REQUIRED UNDER THIS SUBSECTION TO  
10 MAKE ANY REPORT THAT WOULD BE IN VIOLATION OF ANY FEDERAL OR STATE LAW,  
11 RULE, OR REGULATION CONCERNING THE CONFIDENTIALITY OF ALCOHOL AND  
12 DRUG ABUSE PATIENT RECORDS.

13 ~~(2)~~ ~~(4)~~ (5) THE HOSPITAL, RELATED INSTITUTION, ALTERNATIVE  
14 HEALTH SYSTEM, OR EMPLOYER SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF  
15 ANY ACTION DESCRIBED IN THIS SECTION.

16 ~~(3)~~ ~~(5)~~ (6) A REPORT MADE UNDER THIS SECTION IS NOT SUBJECT  
17 TO SUBPOENA OR DISCOVERY IN ANY CIVIL ACTION OTHER THAN A PROCEEDING  
18 ARISING OUT OF A HEARING AND DECISION OF THE BOARD UNDER THIS TITLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
20 effect October 1, 2001.